

**UTAH AIR QUALITY BOARD MEETING**  
**September 1, 2004**  
**MINUTES**

**I. Call to Order**

Board Chair, John Veranth, called the meeting to order at 1:35 p.m.

Board members present:

John Veranth	Dianne Nielson	Joann Seghini
Jerry Grover	Richard Olson	Jeff Utley
Scott Hirschi	Wayne Samuelson	Ernest Wessman
Jim Horrocks		
Executive Secretary: Richard W. Sprott		

**II. Dates of upcoming Air Quality Board Meetings:**

October 6, 2004 and November 3, 2004.

**III. Approval of the Minutes of August 4, 2004 Board Meeting.**

Mr. Veranth suggested a change on page 4, paragraph 5, second sentence, change wording from, "they would be much higher" to "permitted numbers would not be much higher". Richard Olson moved to approve the minutes and Scott Hirschi seconded. The Board approved unanimously.

**IV. Propose for Public Comment: Amend R307-101-2, Definitions, and Repeal and Re-Enact R307-107, General Requirements: Unavoidable Breakdown, with a new title R307-107, General Requirements: Excess Emissions and Reporting.** Presented by Fred Nelson.

Fred Nelson from the Attorney Generals Office explained that the problem of excess emissions during malfunction, start up/shut down, and scheduled maintenance has been difficult to deal with over air quality history. The current state Unavoidable Breakdown rule has been in place around 25 years. At that time, EPA had approved the state rule when the first State Implementation Plan (SIP) was issued. Around 1999, EPA revamped the Unavoidable Breakdown policy for approving or disapproving submissions of SIPs. According to the EPA, all excess emissions from unavoidable breakdowns would be considered violations. There are two options to address excess emissions. First, agency enforcement discretion could be used to determine if a notice of violation was warranted. The second choice would be to establish a system called affirmative defense. If there is an excess emission, a rule could establish the criteria the company, plant or individual could use to demonstrate that certain facts existed that constitute an affirmative defense and there should be no penalty. Factors involved were: was it unavoidable, was the company operating consistent with good practices, and was immediate action taken to correct the problem.

The state of Michigan appealed EPA's rejection of their SIP to the Federal 6<sup>th</sup> Circuit Court of Appeals. The court upheld EPA's decision. Because of that decision, Utah was advised to take a hard look at the present excess emissions rules because the current state rule did not meet the new policy. EPA would reject any future SIPs that involved excess emissions. Over the last year, staff has been working on a proposed rule that involves the affirmative defensive approach as outlined by EPA. The draft has undergone several revisions and has also been circulated to manufacturing associations, industry groups and environmental groups. Comments have been received from these groups. At this point, the draft is ready to go out for public comment and get a formal process started. Staff recommends that the Board consider this draft rule for public comment.

Jeff Utley mentioned that the rule was not clear on what happens during a shut down for maintenance on a control device. Mr. Nelson replied that the provision was under the section dealing with scheduled maintenance, start up, and shut down. The language could be more precise in what is intended by the phrase. Also, provisions of this rule would not apply if there were a specific mechanism in the permit that dealt with that particular issue.

Mr. Utley requested clarification as to the definition of owner. For example, if there is a hole in a bag house on the weekend and the operator on shift didn't think it was an issue or a violation, how is it dealt with? He then asked about information that staff was asking the source to submit. How much operating data is requested? Mr. Nelson suggested that it might be an area where staff can be more specific.

Jim Horrocks asked which method other states were choosing and is there significant opposition with environmental groups or industry? Mr. Nelson responded that reviewed states were using the affirmative defense approach. The affirmative defense lends itself to that rule better than enforcement discretion does.

John Veranth noted there have been some instances where excess emissions are known and can be planned for. A business comes before the Board and the Board talks about such factors as, the time of year, stipulates how many hours they can let it continue, and the Board calls it a variance. The EPA would prefer the Board to call the terminology enforcement discretion. Mr. Nelson said that EPA has also raised issues with respect to approvability of our variance provisions.

John Veranth asked if there were any public comments?

Nina Dougherty, Sierra Club, objected to the state language located on page three, line 11-15, (2)(a). Ms. Dougherty felt this was contrary to EPA which determined that any emissions that exceed the emission limit is a violation regardless of mitigating circumstances. Jerry Grover responded by indicating that in the third section (b) of the attached EPA document, EPA discussed the general affirmative defense provisions. Mr. Nelson referred to page three, line 36, R307-107-sub paragraph two which gave staff the option to use the affirmative defense approach in excess emissions due to malfunction. For example, if a company has an unavoidable emission and shows the Board that all the criteria had been met, the Board will not consider it a violation. This is based on one of the Texas rules that were approved. The Board would not give up enforcement ability.

Mr. Wessman moved that the Board propose for public comment to Amend R307-101-2, Definitions, and Repeal and Re-Enact *R307-107, General Requirements: Unavoidable Breakdown*, with a new title R307-107, *General Requirements: Excess Emissions and Reporting*. Jeff Utley seconded and the Board approved unanimously.

**V. Propose for Public Comment: Amend R307-101-11 And Add a New SIP Section IX.B.6, Maintenance Plan For Sulfur Dioxide For Salt Lake County and Portions Of Eastern Tooele County Above 5,600 Feet.** Presented by Bill Reiss.

Bill Reiss briefly explained how the state had been brought into attainment and has had 22 years of continued compliance with SO<sub>2</sub> (Sulfur Dioxide) NAAQS (National Ambient Air Quality Standards). In 1981, the state first addressed the issue of attainment after being designated as nonattainment in 1978. At the time, Kennecott's smelter was noncompliant. From 1978-1992, significant improvements were made to the smelter. The existing 400-foot stacks were replaced with a 1200-foot stack. This reduced the effects of terrain-induced downwash for better dispersion. These improvements were sufficient to bring the state into compliance with the NAAQS and the area has remained in compliance ever since. It also coincides with the improvements the state made in addressing the PM<sub>10</sub> (particulate matter 10 microns or less) problem. SO<sub>2</sub> is a precursor gas and contributes to the secondary aerosol formation of PM<sub>10</sub>. The state is well within the standards of SO<sub>2</sub> and doesn't expect any further difficulty. Staff is asking that the Board allow this to be released for public comment.

Mr. Veranth asked whether other refineries were causing any high SO<sub>2</sub> and Mr. Reiss responded that the refinery issue was addressed in a direct request from EPA. A significant effort was also made to model, not just the refineries located in Salt Lake County, but also areas north of the border in Davis County. After some exhaustive effort, staff feels confident that the standard is being attained.

Jeff Utley moved that the Board propose for public comment the amendment to R307-110-11 and add a new SIP section IX.B.6, Maintenance Plan for Sulfur Dioxide for Salt Lake County and Portions of Eastern Tooele County above 5,600 feet. Richard Olsen seconded and the Board approved unanimously.

**VI. Information Items.**

**A. SIPs:** Presented by Rick Sprott.

Mr. Sprott reported that EPA had given approval of the WEPCO rule and it was published in the Federal Register. This puts the state in line with the Federal rules with certain provisions for permitting of power plants. It has taken three years and staff is pleased that Region 8 has taken action and that it will be final shortly.

Mr. Veranth asked when the hearing was for the Unavoidable Breakdown Rule. Jan Miller informed the Board that it was Thursday, October 21, 1:30 p.m. in room 201, at the Department of Environmental Quality, 168 North 1950 West. A hearing officer was needed. Mr. Veranth said he would volunteer if no one else did.

- B. COMPLIANCE:** No questions.
- C. HAPS:** No questions.
- D. MONITORING:** Presented by Bob Dalley.

Bob Dalley reviewed the graphs in the packet. He pointed out the high ozone levels in some of the national parks, for example Canyonlands in Utah and the Great Basin Park in Nevada. There were a number of areas that had exceeded the ozone levels for the 8-hour standard, such as Mammoth Lakes in California and Yosemite National Park.

Mr. Utley asked if the emissions from population centers was the cause. Mr. Dalley responded that in California it was. Also, ozone can be naturally formed in the environment. The charts showed that ozone was much higher than anticipated.

Mr. Sprott reported that in the last couple of years, the Western States Air Resource Council (WESTAR), which is the council for Western Air Directors from the Dakotas west, had tried to answer that question. If this is happening on a regular basis in these fairly isolated areas, how will states deal with the problems in populated areas? The Western Regional Air Partnership (WRAP) has data and information that will prove useful. This is an area of intense interest and concern for all of us.

Jeff Utley said that it doesn't have to be NO<sub>x</sub> (Nitrogen Oxides) to form the reaction; there are other reactions that can take place in the urban area. NO<sub>x</sub> will react with VOC (volatile organic compounds) with the result of ozone formation. And NO<sub>x</sub> can be transported long distances too.

Dianne Nielson asked Mr. Dalley if Utah parks were seeing similar patterns of NO<sub>x</sub>, PM or pollutant transport in the winter season. Mr. Sprott responded that staff would have some of the information for the next meeting.

Cheryl Heying pointed out that the ozone issues were a summer-time issue only. The diurnal patterns experienced in the urban areas were also being experienced in the Canyons Lands and Great Basin areas.

Mr. Veranth noted that the WRAP modeling showed a large percentage of haze-forming pollutants in the western parks, which were coming from the boundaries of the model.

Mr. Dalley then showed aerial pictures of Antelope Island from 2004 and 1963, both drought years. Currently there is 60-70 thousand acres of dry beach at the Great Salt Lake, just slightly less than 1963. Staff, in response to observations and concerns from Dr. Nielson, was beginning a monitoring effort to try to characterize what is coming off the new exposed beach. Data is being collected at monitoring sites at the eastern end of the causeway and on the west side of Farmington along the I-80 frontage road.

Mr. Sprott said that part of staff efforts were to characterize some of the components, beside the particles themselves, to see what kind of health concerns there might be. Air Quality wants to be in a position to provide information to the citizens to allow the public to decide whether to stay indoors because of respiratory issues. The same thing is done during the inversions in the wintertime.

Ms. Nielson suggested staff have the ability to collect the information, look at and understand what there is in terms of particle size and chemistry.

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Meeting adjourned 2:35 pm.